

### **REMARKS**

In the Office Action mailed August 8, 2007 as entered in the above-captioned matter, Claims 1-4 and 6-7 were rejected under 35 U.S.C. 102(b) given Malkin et al. (U.S. Patent No. 6,061,650) ("Malkin"). Claims 5 and 8-36 were rejected under 35 U.S.C. 103(a) given Malkin in view of O'Brien, Jr. (U.S. Patent Publication No. 2003/0031165) ("O'Brien"). The Applicant respectfully traverses these rejections and requests reconsideration.

The Examiner bases these rejections upon an interpretation of Malkin that Malkin teaches the use of *a* session initiation protocol (i.e., link control protocol (LCP)) to establish a connection between two nodes. The Examiner offers this interpretation of Malkin in response to the Applicant's earlier comments that Malkin did not teach the use "session initiation protocol."

There seems to be no dispute with respect to the Applicant's primary point, which is that Malkin does not teach the use of session initiation protocol, i.e., SIP. The Examiner, however, seeks to interpret the expression "session initiation protocol" as being essentially *any* protocol that is capable of initiating a session. The Applicant strongly disagrees with such an interpretation of Malkin.

First, the grammatical syntax employed in the claims does not support such an interpretation. Claim 1, for example, states, "receiving session initiation protocol compatible authentication message information." To support the Examiner's interpretation, this should read instead as, "receiving *a* session initiation protocol compatible authentication message information." The article "a" is missing in Claim 1, however, and hence the grammatical structure of this expression strongly mitigates against the interpretation being suggested by the Examiner. It is well established that the context of surrounding words in a claim must be

considered when determining the ordinary and customary meaning of the terms. See, for example, *Brookhill-Wilk#1, LLC vs. Intuitive Surgical, Inc.*, 334 F.3<sup>rd</sup> 1294 (Fed. Cir. 2003).

More fundamentally, however, and regardless of the point made above, the Applicant respectfully submits that a person skilled in the art, reading the specification and the claims, would not make the interpretation being suggested by the Examiner. It is, of course, axiomatic that the words in claims “are examined through the viewing glass of a person skilled in the art.” *Id.* The Applicant respectfully submits that this claim expression, either alone or as taken in context with the specification, will be understood by a person skilled in the art to refer to *the* session initiation protocol (SIP) and not merely *a* protocol capable of initiating a session such as LCP.

In support of this view, the Applicant includes the Declarations of Brent Kaser and Wenshun Tian. These Declarations, establish that these individuals are skilled in the technical field of Internet Protocol compatible sessions including authentication and billing activities. This, in turn, exactly corresponds to the technical field as set forth in the specification itself. Both Declarants then establish that they have read the specification and states that, “as a person skilled in the technical field of Internet Protocol compatible session, this expression (“session initiation protocol”) is well known to them and is clearly and unambiguously understood to refer to an application-layer control (signaling) protocol for creating, modifying, and terminating sessions with one or more participants as defined by the Internet Engineering Taskforce (IETF) at RFC 3261.” Both further go on to establish that they would not confuse the expression “session initiation protocol” as somehow referring to LCP. Both also state that they are of the opinion that other persons skilled in the technical field of Internet Protocol compatible sessions would agree with their statements.

Therefore, as the claims must be reviewed as meaning what one skilled in the art would take them to mean, and as it is clear on the record that such a person would not

U.S. Patent Application No. 10/698,272  
Response to Office Action Dated 12/6/2007  
Response to Office Action of August 8, 2007

Attorney Docket No. 7793/79512


understand the expression "session initiation protocol" to have the meaning suggested by the Examiner, the Applicant respectfully submits that Malkin cannot be applied as suggested.

As Malkin is a key component of both the 102 and 103 rejections, the Applicant respectfully submits that all of the rejections of record are traversed. Accordingly, Claims 1-22, 24-32, and 34-36 are allowable over the references of record.

Respectfully requested,

FITCH, EVEN, TABIN & FLANNERY

Date: Dec. 6, 2007

By: 

Steven G. Parmelee  
Registration No. 28,790

120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-4277  
Telephone: (312) 577-7000